

106TH CONGRESS
1ST SESSION

S. 792

To amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the medicaid program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1999

Mr. DASCHLE for Mr. MOYNIHAN (for himself, Mr. GRAHAM, Mr. KENNEDY, Mr. DURBIN, Mr. WELLSTONE, Mrs. FEINSTEIN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women, children, and blind or disabled medically needy individuals to be eligible for medical assistance under the medicaid program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for Legal Im-
5 migrants Act of 1999”.

1 **SEC. 2. OPTIONAL ELIGIBILITY OF CERTAIN ALIEN PREG-**
 2 **NANT WOMEN AND CHILDREN FOR MED-**
 3 **ICAID.**

4 (a) IN GENERAL.—Subtitle A of title IV of the Per-
 5 sonal Responsibility and Work Opportunity Reconciliation
 6 Act of 1996 (8 U.S.C. 1611–1614) is amended by adding
 7 at the end the following:

8 **“SEC. 405. OPTIONAL ELIGIBILITY OF CERTAIN ALIENS FOR**
 9 **MEDICAID.**

10 “(a) OPTIONAL MEDICAID ELIGIBILITY FOR CER-
 11 TAIN ALIENS.—A State may elect to waive (through an
 12 amendment to its State plan under title XIX of the Social
 13 Security Act) the application of sections 401(a), 402(b),
 14 403, and 421 with respect to eligibility for medical assist-
 15 ance under the program defined in section 402(b)(3)(C)
 16 (relating to the medicaid program) of aliens who are law-
 17 fully residing in the United States (including battered
 18 aliens described in section 431(c)), within any or all (or
 19 any combination) of the following categories of individuals:

20 “(1) PREGNANT WOMEN.—Women during preg-
 21 nancy (and during the 60-day period beginning on
 22 the last day of the pregnancy).

23 “(2) CHILDREN.—Children (as defined under
 24 such plan), including optional targeted low-income
 25 children described in section 1905(u)(2)(B).”.

1 (b) APPLICABILITY OF AFFIDAVITS OF SUPPORT.—
2 Section 213A(a) of the Immigration and Nationality Act
3 (8 U.S.C. 1183a(a)) is amended by adding at the end the
4 following:

5 “(4) INAPPLICABILITY TO BENEFITS PROVIDED
6 UNDER A STATE WAIVER.—For purposes of this sec-
7 tion, the term ‘means-tested public benefits’ does not
8 include benefits provided pursuant to a State elec-
9 tion and waiver described in section 405 of the Per-
10 sonal Responsibility and Work Opportunity Rec-
11 onciliation Act of 1996.”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 401(a) of the Personal Responsi-
14 bility and Work Opportunity Reconciliation Act of
15 1996 (8 U.S.C. 1611(a)) is amended by inserting
16 “and section 405” after “subsection (b)”.

17 (2) Section 402(b)(1) of the Personal Responsi-
18 bility and Work Opportunity Reconciliation Act of
19 1996 (8 U.S.C. 1612(b)(1)) is amended by inserting
20 “, section 405,” after “403”.

21 (3) Section 403(a) of such Act (8 U.S.C.
22 1613(a)) is amended by inserting “section 405 and”
23 after “provided in”.

24 (4) Section 421(a) of such Act (8 U.S.C.
25 1631(a)) is amended by inserting “except as pro-

1 vided in section 405,” after “Notwithstanding any
2 other provision of law,”.

3 (5) Section 1903(v)(1) of the Social Security
4 Act (42 U.S.C. 1396b(v)(1)) is amended by insert-
5 ing “and except as permitted under a waiver de-
6 scribed in section 405(a) of the Personal Responsi-
7 bility and Work Opportunity Reconciliation Act of
8 1996,” after “paragraph (2),”.

9 (d) RETROACTIVITY OF EFFECTIVE DATE.—The
10 amendments made by this section shall take effect as if
11 included in the enactment of title IV of the Personal Re-
12 sponsibility and Work Opportunity Reconciliation Act of
13 1996 (8 U.S.C. 1611 et seq.), except that the amendment
14 made by subsection (b) shall apply as if included in the
15 enactment of section 551(a) of the Illegal Immigration Re-
16 form and Immigrant Responsibility Act of 1996 (division
17 C of Public Law 104–208).

18 **SEC. 3. OPTIONAL ELIGIBILITY OF IMMIGRANT CHILDREN**
19 **FOR SCHIP.**

20 (a) IN GENERAL.—Section 405 of the Personal Re-
21 sponsibility and Work Opportunity Reconciliation Act of
22 1996, as added by section 2(a), is amended—

23 (1) in the heading, by inserting “**AND SCHIP**”
24 before the period; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) OPTIONAL SCHIP ELIGIBILITY FOR CERTAIN
4 ALIENS.—

5 “(1) IN GENERAL.—Subject to paragraph (2), a
6 State may also elect to waive the application of sec-
7 tions 401(a), 402(b), 403, and 421 with respect to
8 eligibility of children for child health assistance
9 under the State child health plan of the State under
10 title XXI of the Social Security Act (42 U.S.C.
11 1397aa et seq.), but only with respect to children
12 who are lawfully residing in the United States (in-
13 cluding children who are battered aliens described in
14 section 431(c)).

15 “(2) REQUIREMENT FOR ELECTION.—A waiver
16 under this subsection may only be in effect for a pe-
17 riod in which the State has in effect an election
18 under subsection (a) with respect to the category of
19 individuals described in subsection (a)(2) (relating to
20 children).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) applies to child health assistance for cov-
23 erage provided for periods beginning on or after October
24 1, 1997.

1 **SEC. 4. OPTIONAL ELIGIBILITY OF CERTAIN MEDICALLY**
 2 **NEEDY ALIENS FOR MEDICAID.**

3 (a) OPTIONAL ELIGIBILITY OF CERTAIN ALIENS
 4 WHO ARE BLIND OR DISABLED MEDICALLY NEEDY AD-
 5 MITTED AFTER AUGUST 22, 1996.—

6 (1) IN GENERAL.—Section 405(a) of the Per-
 7 sonal Responsibility and Work Opportunity Rec-
 8 onciliation Act of 1996, as added by section 2(a), is
 9 amended by adding at the end the following:

10 “(3) CERTAIN BLIND OR DISABLED MEDICALLY
 11 NEEDY.—Individuals who are considered blind or
 12 disabled under section 1614(a) of the Social Security
 13 Act (42 U.S.C. 1382c(a)) and who, but for sections
 14 401(a), 402(b) and 403 (except as waived under this
 15 subsection), would be eligible for medical assistance
 16 under clause (ii)(IV) of section 1902(a)(10)(A) of
 17 the Social Security Act (42 U.S.C.
 18 1396a(a)(10)(A)), or would be eligible for such as-
 19 sistance under any other clause of that section of
 20 that Act because the individual, if enrolled in the
 21 program under title XVI of the Social Security Act,
 22 would receive supplemental security income benefits
 23 or a State supplementary payment under that
 24 title.”.

25 (2) RETROACTIVITY OF EFFECTIVE DATE.—The
 26 amendment made by paragraph (1) shall take effect

1 as if included in the enactment of title IV of the
 2 Personal Responsibility and Work Opportunity Rec-
 3 onciliation Act of 1996 (8 U.S.C. 1611 et seq.).

4 (b) OPTIONAL ELIGIBILITY OF MEDICALLY NEEDY
 5 ALIENS REQUIRING A CERTAIN LEVEL OF CARE.—

6 (1) IN GENERAL.—Section 405 of the Personal
 7 Responsibility and Work Opportunity Reconciliation
 8 Act of 1996, as added by section 2(a) and as amend-
 9 ed by section 3(a) and subsection (a), is further
 10 amended by adding at the end the following new
 11 subsection:

12 “(c) OPTIONAL ELIGIBILITY FOR MEDICALLY NEEDY
 13 ALIENS REQUIRING A CERTAIN LEVEL OF CARE.—A
 14 State may also elect to waive the application of sections
 15 401(a), 402(b), and 421 with respect to eligibility for med-
 16 ical assistance under the program defined in section
 17 402(b)(3)(C) (relating to the medicaid program) of aliens
 18 who—

19 “(1) were lawfully residing in the United States
 20 on August 22, 1996; and

21 “(2) are residents of a nursing facility (as de-
 22 fined in section 1919(a) of the Social Security Act
 23 (42 U.S.C. 1396r(a)), or require the level of care
 24 provided in a such a facility or in an intermediate

1 care facility, the cost of which could be reimbursed
 2 under the State plan under title XIX of that Act.”.

3 (2) EFFECTIVE DATE.—The amendment made
 4 by paragraph (1) shall take effect as if included in
 5 the enactment of title IV of the Personal Responsi-
 6 bility and Work Opportunity Reconciliation Act of
 7 1996 (8 U.S.C. 1611 et seq.).

8 **SEC. 5. ELIGIBILITY OF CERTAIN ALIENS FOR SSI.**

9 (a) AGED ALIENS LAWFULLY RESIDING IN THE
 10 UNITED STATES ON AUGUST 22, 1996.—Section
 11 402(a)(2) of the Personal Responsibility and Work Oppor-
 12 tunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2))
 13 is amended by adding at the end the following:

14 “(L) SSI EXCEPTION FOR AGED ALIENS
 15 LAWFULLY RESIDING IN THE UNITED STATES
 16 ON AUGUST 22, 1996.—With respect to eligibility
 17 for the program defined in paragraph (3)(A),
 18 paragraph (1) shall not apply to any individual
 19 who was lawfully residing in the United States
 20 on August 22, 1996, and has attained age 65.”.

21 (b) BLIND OR DISABLED QUALIFIED ALIENS WHO
 22 ENTERED THE UNITED STATES AFTER AUGUST 22,
 23 1996.—

24 (1) IN GENERAL.—Section 402(a)(2) of the
 25 Personal Responsibility and Work Opportunity Rec-

1 conciliation Act of 1996 (8 U.S.C. 1612(a)(2)), as
 2 amended by subsection (a), is amended by adding at
 3 the end the following:

4 “(M) SSI EXCEPTION FOR BLIND OR DIS-
 5 ABLED QUALIFIED ALIENS WHO ENTERED THE
 6 UNITED STATES AFTER AUGUST 22, 1996.—With
 7 respect to eligibility for the program defined in
 8 paragraph (3)(A), paragraph (1) and section
 9 421 shall not apply to any individual who en-
 10 tered the United States on or after August 22,
 11 1996 with a status within the meaning of the
 12 term ‘qualified alien’, and became blind or dis-
 13 abled (within the meaning of section 1614(a) of
 14 the Social Security Act (42 U.S.C. 1382c(a)))
 15 after the date of such entry.”.

16 (2) EXCEPTION FROM 5-YEAR BAN.—Section
 17 403(b) of the Personal Responsibility and Work Op-
 18 portunity Reconciliation Act of 1996 (8 U.S.C.
 19 1613(b)) is amended by adding at the end the fol-
 20 lowing:

21 “(3) CERTAIN BLIND OR DISABLED ALIENS.—
 22 An alien described in section 402(a)(2)(M), but only
 23 with respect to the programs specified in subsections
 24 (a)(3)(A) and (b)(3)(C) of section 402 (and, with re-

1 spect to such programs, section 421 shall not apply
2 to such an alien).”.

3 (3) CONFORMING AMENDMENT.—Section
4 421(a) of the Personal Responsibility and Work Op-
5 portunity Reconciliation Act of 1996 (8 U.S.C.
6 1631(a)), as amended by section 2(c)(4), is amended
7 by inserting “, section 402(a)(2)(M), and section
8 403(b)(3)” after section “405”.

9 (4) ENFORCEMENT OF AFFIDAVITS OF SUP-
10 PORT.—For provisions relating to the enforcement
11 of affidavits of support in cases of individuals made
12 eligible for benefits under the amendment made by
13 paragraph (1), see section 213A of the Immigration
14 and Nationality Act (8 U.S.C. 1183a).

15 (c) EFFECTIVE DATE.—The amendments made by
16 subsections (a) and (b) are effective with respect to bene-
17 fits payable for months after the month in which this Act
18 is enacted, but only on the basis of applications filed on
19 or after the date of enactment of this Act.

20 **SEC. 6. ELIGIBILITY OF LEGAL IMMIGRANTS FOR FOOD**
21 **STAMPS.**

22 (a) IN GENERAL.—Section 402(a)(2) of the Personal
23 Responsibility and Work Opportunity Reconciliation Act
24 of 1996 (8 U.S.C. 1612(a)(2)), as amended by section
25 5(b)(1), is amended by adding at the end the following:

1 “(N) FOOD STAMP EXCEPTION FOR
 2 ALIENS LAWFULLY RESIDING IN THE UNITED
 3 STATES ON AUGUST 22, 1996.—With respect to
 4 eligibility for benefits for the specified Federal
 5 program described in paragraph (3)(B), para-
 6 graph (1) shall not apply to an individual who
 7 was lawfully residing in the United States on
 8 August 22, 1996.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) applies to benefits under the food stamp
 11 program, as defined in section 3(h) of the Food Stamp
 12 Act of 1977 (7 U.S.C. 2012(h)) for months beginning at
 13 least 30 days after the date of enactment of this Act.

14 **SEC. 7. ELIGIBILITY OF LEGAL IMMIGRANTS SUFFERING**
 15 **FROM DOMESTIC ABUSE.**

16 (a) EXEMPTION FROM SSI AND FOOD STAMPS
 17 BAN.—Section 402(a)(2) of the Personal Responsibility
 18 and Work Opportunity Reconciliation Act of 1996 (8
 19 U.S.C. 1612(a)(2)), as amended by section 6(a), is amend-
 20 ed by adding at the end the following:

21 “(O) BATTERED IMMIGRANTS.—With re-
 22 spect to eligibility for benefits for a specified
 23 Federal program (as defined in paragraph (3)),
 24 paragraph (1) shall not apply to any individual
 25 described in section 431(c).”.

1 (b) EXEMPTION FROM 5-YEAR BAN.—Section 403(b)
 2 of the Personal Responsibility and Work Opportunity Rec-
 3 onciliation Act of 1996 (8 U.S.C. 1613(b)), as amended
 4 by section 5(b)(2), is amended by adding at the end the
 5 following:

6 “(4) BATTERED IMMIGRANTS.—An alien de-
 7 scribed in section 431(c).”.

8 (c) EXPANSION OF DEFINITION OF BATTERED IMMI-
 9 GRANTS.—

10 (1) IN GENERAL.—Section 431(c) of the Per-
 11 sonal Responsibility and Work Opportunity Rec-
 12 onciliation Act of 1996 (8 U.S.C. 1641(c)) is
 13 amended—

14 (A) in paragraphs (1)(A), (2)(A), and
 15 (3)(A) by inserting “ or the benefits to be pro-
 16 vided would alleviate the harm from such bat-
 17 tery or cruelty or would enable the alien to
 18 avoid such battery or cruelty in the future” be-
 19 fore the semicolon; and

20 (B) in the matter following paragraph (3),
 21 by inserting “ and for determining whether the
 22 benefits to be provided under a specific Federal,
 23 State, or local program would alleviate the
 24 harm from such battery or extreme cruelty or
 25 would enable the alien to avoid such battery or

1 extreme cruelty in the future” before the pe-
 2 riod.

3 (2) CONFORMING AMENDMENT REGARDING
 4 SPONSOR DEEMING.—Section 421(f)(1) of the Per-
 5 sonal Responsibility and Work Opportunity Rec-
 6 onciliation Act of 1996 (8 U.S.C. 1631(f)(1)) is
 7 amended—

8 (A) in subparagraph (A), by inserting “or
 9 would alleviate the harm from such battery or
 10 cruelty, or would enable the alien to avoid such
 11 battery or cruelty in the future” before the
 12 semicolon; and

13 (B) in subparagraph (B), by inserting “or
 14 would alleviate the harm from such battery or
 15 cruelty, or would enable the alien to avoid such
 16 battery or cruelty in the future” before the pe-
 17 riod.

18 (d) CONFORMING DEFINITION OF “FAMILY” USED
 19 IN LAWS GRANTING FEDERAL PUBLIC BENEFIT ACCESS
 20 FOR BATTERED IMMIGRANTS TO STATE FAMILY LAW.—
 21 Section 431(c) of the Personal Responsibility and Work
 22 Opportunity Reconciliation Act of 1996 (8 U.S.C.
 23 1641(c)) is amended—

24 (1) in paragraph (1)(A), by striking “by a
 25 spouse or a parent, or by a member of the spouse

1 or parent's family residing in the same household as
2 the alien and the spouse or parent consented to, or
3 acquiesced in, such battery or cruelty," and insert-
4 ing "by a spouse, parent, son, or daughter, or by
5 any individual having a relationship with the alien
6 covered by the civil or criminal domestic violence
7 statutes of the State or Indian country where the
8 alien resides, or the State or Indian country in
9 which the alien, the alien's child, or the alien child's
10 parents received a protection order, or by any indi-
11 vidual against whom the alien could obtain a protec-
12 tion order,"; and

13 (2) in paragraph (2)(A), by striking "by a
14 spouse or parent of the alien (without the active par-
15 ticipation of the alien in the battery or cruelty), or
16 by a member of the spouse or parent's family resid-
17 ing in the same household as the alien and the
18 spouse or parent consented or acquiesced to such
19 battery or cruelty," and inserting "by a spouse, par-
20 ent, son, or daughter of the alien (without the active
21 participation of alien in the battery or cruelty) or by
22 any individual having a relationship with the alien
23 covered by the civil or criminal domestic violence
24 statutes of the State or Indian county where the
25 alien resides, or the State or Indian country in

1 which the alien, the alien's child, or the alien child's
2 parent received a protection order, or by any indi-
3 vidual against whom the alien could obtain a protec-
4 tion order,".

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section apply to Federal means-tested public benefits
7 provided on or after the date of enactment of this Act.

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